

Passport rules unfair to child support debtors

By Jeffery M. Leving and Glenn Sacks

The *San Antonio Express-News*' recent editorial "Federal law catching up with deadbeat parents" (8/23/07) presents a one-sided view of child support debtors. The editorial commends new passport policies which deny passports to parents who have fallen \$2,500 behind on child support. The *Express-News* apparently believes that most child support debtors are willfully refusing to meet their support obligations, and asserts that many debtors seek to "hurt their ex-spouses by not paying child support."

There are child support debtors who match the *Express-News*' description, but they are very much the minority. Much has been said about a few of the large payments the Federal Office of Child Support Enforcement says the program has collected, particularly the \$311,491 paid by a father who was marooned in Hong Kong without a passport. Yet, according to the federal OCSE's own data, such parents are in no way representative of the average "deadbeat."

OCSE data shows that two-thirds of those behind on child support nationwide earned poverty-level wages; less than four percent of the national child support debt is owed by those earning \$40,000 or more a year.

A look at Texas Attorney General Greg Abbott's current "Texas Top 10 Most Wanted Child Support Evaders" poster on the AG's website confirms this. There's not one educated parent on the list, which instead contains six general/construction laborers, a landscaper, a salesman, and two tradesmen.

Child support obligors often fall behind because the child support system is mulishly impervious to the economic realities working people face, such as layoffs, wage cuts, unemployment, and work-related injuries. According to the Urban Institute, less than one in 20 non-custodial parents who suffers a substantial drop in income is able to get courts to reduce his or her child support payments.

Abbott's office backhandedly acknowledges the difficulties men in these situations face, advising obligors, "It is best to get a lawyer, if you can afford one, to handle your attempt to change the amount of child support you owe." How many unemployed blue-collar workers can afford to hire an attorney?

Another reason the passport rules are a bad idea is that the information being employed by the OCSE is often faulty. Child support enforcement agencies—including Abbott's office—are notorious for their incessant "computer" errors which lead to the harassment and persecution of innocent citizens. Abbott's office's role in the Joe Martin case, as documented by the *Des Moines Register*, provides a good example.

Martin is disabled and childless, but was nonetheless targeted by the Texas Attorney General's office for a phantom \$3,500 child-support debt. According to the *Register*, the

47-year-old Iowan received numerous threatening letters which warned him that he could lose his driver's license, have his bank account seized, and be publicly humiliated by being pictured on a "Most Wanted" poster. It was a case of mistaken identity--Abbott had the wrong Joe Martin--but it was only straightened out after media attention and a lot of heartache.

The passport rules also constitute a significant civil liberties violation. Given the errors in the child support system, as well as its often unreasonable demands and its inflexibility, the OCSE is effectively stripping many innocent citizens of their right to travel. In cases where an American's passport has been lost while abroad, it means that he or she will be marooned in a foreign country, probably broke and possibly in danger.

While the OCSE and the media have focused on wealthy travelers, in many passport cases the money collected is not paid by the financially strapped "deadbeat" parent. Instead, it is paid by worried grandparents who don't want their children trapped in a difficult situation.

In enforcing child support, both the federal government and the Texas Attorney General have emphasized punitive measures. What's needed instead is an overhaul of the system, so that parents are not punished because they are unable to pay support obligations which are beyond their reach.

This column first appeared in the San Antonio Express-News (9/8/07).

Jeffery M. Leving is one of America's most prominent family law attorneys.